

EXHIBIT D



COMMONWEALTH of VIRGINIA
Office of Employment Dispute Resolution

DIVISION OF HEARINGS

DECISION OF HEARING OFFICER

In re:

Case No: 11784-R

Reconsideration Decision Issued: July 20, 2022

RECONSIDERATION DECISION

On July 5, 2022, the Office of Employment Dispute Resolution issued Ruling Number 2022-5423 remanding this matter to the Hearing Officer. The Ruling provided:

the grievant was a management-level employee. By its terms, Policy 701 does not apply to management-level employees, who are instead subject to Policy 105. Therefore, the hearing officer's conclusion that Policy 701 should have governed the grievant's removal does not appear to be supported by the record evidence. The agency effectuated the grievant's separation under Policy 105 as a removal for just cause. Members of management who are removed for just cause are ineligible for severance. Accordingly, the hearing officer's determination by reference to Policy 701 that the grievant should be awarded severance was inconsistent with agency policy and must be removed from the decision. (Footnote omitted).

DHRM is responsible for interpreting State policy and has interpreted relevant policies such that Grievant is not entitled to severance benefits. Accordingly, the Original Hearing Decision is **Amended** to provide:

For the reasons stated herein, the University's decision to remove Grievant from employment is upheld.

APPEAL RIGHTS

A hearing officer's original decision becomes a **final hearing decision**, with no further possibility of an administrative review, when:

1. The 15 calendar day period for filing requests for administrative review has expired and neither party has filed such a request; or,
2. All timely requests for administrative review have been decided and, if ordered by DHRM, the hearing officer has issued a revised decision.

Judicial Review of Final Hearing Decision

Within thirty days of a final decision, a party may appeal on the grounds that the determination is contradictory to law by filing a notice of appeal with the clerk of the circuit court in the jurisdiction in which the grievance arose. The agency shall request and receive prior approval of the Director before filing a notice of appeal.

/s/ Carl Wilson Schmidt

Carl Wilson Schmidt, Esq.
Hearing Officer